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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,030	12/20/2001	Ananthanarayan Venkateswaran	AA411M	5106

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,030

Applicant(s)

VENKATESWARAN ET AL.

Examiner

JYOTHSNA A VENKAT

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/8/04 has been entered.

Claims 1-3, and 5-10 are pending in the application and the status of the application is as follows:

Claim Rejections - 35 USC § 103

1. Claims 1-3, and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 460,683 ('683), WO '655 and U. S. Patent 6,468,515 ('515).

The instant application is claiming a hair conditioning composition comprising by weight:

- a. From about 0.1% to about 20% of a cationic emulsion comprising by weight of the cationic emulsion from about 1% to about 20% of a cationic surfactant and emulsifiable amount of silicone compound*
- b. 0.1% to about 15% of a high melting point fatty compound*
- c. From about 0.1% to about 10% of a cationic conditioning agent*
- d. An aqueous carrier*
- e. Low melting oil, which can be either fatty alcohol of claim 7, or either pentaerythritol ester oils or citrate ester oils of claim 8*

f. Polyethylene glycol (claim 9)

The EP document teaches ingredient 1 for hair care. See page2, pages 4-6. The document teaches that ingredient c can be added to the compositions. The document neither teaches the range of c nor teaches the other ingredients claimed. WO document teaches the ingredients b-d in hair compositions. See paper no. 6 under 102(b) rejection for relevant pages. The document does not teach ingredients e-f in the hair compositions. However the patent '515 teaches hair conditioning compositions comprising high molecular ester oils which are the species claimed under c. See col.2, lines 10-55 for the two structures. See also cols. 3-4. The patent also teaches ingredient f at col.19, lines 1-40. The patent also teaches ingredients b-d. See col.17, lines 34 et seq and col.18 for the ingredients b. The cationic conditioning agent is taught at col.4, lines 35 et seq and cols. 5-6. The patent does not teach ingredient a) as an emulsion, but the patent teaches the both the ingredients claimed in a, which are cationic surfactant and silicone compounds. See silicone compounds at col.s 10-12 and col.13, lines 1-53 and see col.13, lines 55 et seq and col.14, cols 15-16, col.17, lines 1-32 for the cationic surfactant. See also the examples.

2. Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare compositions of '655 and combine it with the cationic silicone emulsions of '683 and *low melting oil which can be either fatty alcohol of claim 7 or either pentaerythritol ester oils or citrate ester oils of claim 8, and polyethylene glycol (claim 9)* of '515 expecting beneficial effect to the hair. The motivation to use the *low melting oil which can be either fatty alcohol of claim 7 or either pentaerythritol ester oils or citrate ester oils* stems from the teachings of '515 that

the compositions provide lasting moisturizing feel, smooth feel, manageability control to the hair and yet not leave the hair feeling greasy. The motivation to use the cationic silicone emulsions where in the silicone compound comprises a mechanically emulsified polydimethylsiloxane stems from the teaching of '683 that these emulsions possess high viscosity and high molecular weight. The motivation to combine the ingredients flows logically from the art for having been used in the same hair care compositions. This is a prima facie case of obviousness.

Response to Arguments

3. Applicant's arguments filed 3/8/04 have been fully considered but they are not persuasive
4. Applicants argue that EP '683 is purely concentrated on a method of treating hair by applying a formulation comprising incorporating an organosilicon compound in the form of mechanically prepared emulsion and the reference does not recognize the problem for which the present invention has solved, i.e. the need for hair conditioning compositions providing hair volume up or increase bulk volume, while not deteriorating conditioning benefits.
5. In response to the above argument, applicants are notified that claim is no longer rejected which is directed to the method of use. The claims rejected are drawn to compositions and the claims are drawn to conditioning compositions and the EP document teaches the cationic silicone emulsions.
6. Applicants argue that there is no description regarding the relationship between the combinations of the ingredients applied as a unique gel network and there is no

motivation in '683 to combine with either WO'655 or US '515 and arrive at such specific gel matrix.

7. In response to the above argument, it is the position of the examiner that the claims do not recite "gel matrix" and additionally the claims are drawn to compositions and one of ordinary skill in the art would be certainly motivated to combine *low melting oil which can be either fatty alcohol of claim 7 or either pentaerythritol ester oils or citrate ester oils* into the compositions of 'EP '683 because the compositions provide lasting moisturizing feel, smooth feel, manageability control to the hair and yet not leave the hair feeling greasy and combine it with the ingredients b-d of the WO document that these components provide hair conditioning properties and all the references are in the hair care art and the motivation to combine the ingredients flows logically from the art for having been used in the same hair care compositions.

Allowable Subject Matter

8. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Thursday, 9:30-7:30:1st and 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K PAGE can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JYOTHSNA A VENKAT
Primary Examiner
Art Unit 1615
